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**UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ARIZONA**

In re: Application Pursuant to 28 U.S.C.
 § 1782 of Nikon Corporation,

Case No.: 2:17-mc-00035-JJT

Petitioner,

**JOINT PROPOSED DOCUMENT
 PRODUCTION SCHEDULE**

- To take discovery of -

ASML US, Inc.,

Respondent.

The parties hereby submit this joint proposed Document Production Schedule, pursuant to the Court's Order of September 12, 2017 ("Order", Dkt. No. 25). The parties are unable to agree on a production schedule and thus state their respective positions below:

I. NIKON'S POSITION

Nikon is facing evidentiary deadlines in the foreign proceedings for which the Court permitted discovery. The first such deadline arises in two of those proceedings in

1 January 2018 (*i.e.*, January 12 and 17). Thus, it is Nikon's position that the production
2 should be commenced within forty-five days of the date of the Court's September 12,
3 2017 Order granting Nikon's Application (*i.e.*, October 27, 2017), with full completion of
4 the production within thirty-five days thereafter (*i.e.*, December 1, 2017). That production
5 schedule will permit Nikon time to review the material produced and address any
6 questions with ASML US about the adequacy of the production prior to the January 2018
7 evidentiary deadlines.

8 As recognized by Magistrate Judge Van Keulen in *Nikon Corp. v. GlobalFoundries*
9 *U.S. Inc.*, No. 17-mc-80071-SVK, Dkt. No. 24 (N.D. Cal. Aug. 15, 2017), any production
10 schedule by which ASML US seeks to identify and stage productions based on its view of
11 the relevance to particular foreign proceedings will only result in unnecessary disputes.
12 *See id.* (Aug. 15, 2017 Tr.) at 38 ("Returning to Global Foundries' proposed conditions in
13 its brief. One was that it wanted to structure a response to tie it to the timing of the
14 actions. I believe it referred specifically to the Netherlands, and I think that that would
15 only encourage further argument over which documents are teed up first, second, and
16 third and so forth. So I think that the parties should proceed in terms of negotiating the
17 scope of production, start a rolling production, and move along and produce the
18 documents in a timely fashion. I would suggest that this production would appear to be
19 able to be completed in 45 days.")

20 **II. ASML US'S POSITION**

21 ASML US has proposed to Nikon that it will serve Nikon with written objections
22 by October 6, will meet and confer regarding those objections by October 13, will make
23 its first production of responsive documents to Nikon by November 10, and will continue
24 making productions on a rolling basis thereafter. Furthermore, to help alleviate Nikon's
25 concerns about pending deadlines in the underlying proceedings, ASML US has offered to
26 work with Nikon to identify those requests that pertain to those foreign actions in which
27 Nikon has its earliest filing deadlines, and focus its collection and review accordingly.

28 Nikon has rejected ASML US's proposal and cites to the proceedings it has filed

1 against GlobalFoundries as supporting its position. However, that comparison is
 2 misleading, as Nikon argued to the Northern District of California that it “has propounded
 3 significantly more limited requests [against GlobalFoundries] than against ASML US.”
 4 *Nikon Corp. v. GlobalFoundries U.S. Inc.*, No. 17-mc-80071-SVK, Dkt. No. 36 (N.D.
 5 Cal. Sept. 11, 2017), at *23. In addition, while Nikon cites the Magistrate Judge’s
 6 comment during oral argument, today the district court granted GlobalFoundries’s request
 7 for an Interim stay, while addressing the same deadlines that Nikon cites here.
 8 Specifically, Judge Freeman stated: “Nikon asserts that any delay in production would
 9 jeopardize its ability to meet January 2018 deadlines in the Netherlands and Germany.
 10 While the Court is sympathetic to Nikon’s obligations in other fora, Nikon is the entity
 11 seeking to impose its legal disputes on a third party who wants no part of them.” *Id.*, Dkt.
 12 46 (N.D. Cal. Sept. 22, 2017), at *5.

13 As ASML US has previously indicated, personnel at ASML US do not have the
 14 subject matter expertise to locate and identify materials potentially responsive to Nikon’s
 15 requests. It is therefore anticipated that it will be necessary for employees of ASML NV
 16 in the Netherlands to identify any responsive documents, making Nikon’s proposed
 17 document schedule impracticable.

18
 19 JOINTLY SUBMITTED this 22nd day of September, 2017.

20 MORRISON & FOERSTER LLP

21 By: /s/ J. Alexander Lawrence
 22 J. ALEXANDER LAWRENCE

23 Attorneys for Petitioner Nikon Corporation

24
 25 WILMER CUTLER PICKERING HALE AND
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26 By: /s/ Gregory H. Lantier (with permission)
 27 GREGORY H. LANTIER

28 Attorneys for Respondent ASML US, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2017, the attached document was electronically transmitted to the Clerk of the Court using the CM/ECF System which will send notification of such filing and transmittal of a Notice of Electronic Filing to all CM/ECF registrants.

/s/ Robin Sexton